

ASSEMBLY BILL

No. 939

Introduced by Assembly Member V. Manuel Pérez

February 18, 2011

An act to amend Sections 71100 and 71103.5 of, and to add Sections 71103.6 and 71103.7 to, the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 939, as introduced, V. Manuel Pérez. Environment: New River Water Quality, Public Health, and River Parkway Development Program.

Existing law requires the California-Mexico Border Relations Council, contingent upon the execution of an agreement with the City of Calexico to provide the necessary funding, to develop a strategic plan to guide the implementation of the New River Improvement Project containing specified elements.

This bill would require the Natural Resources Agency, in collaboration with the council, to develop a New River Water Quality, Public Health, and River Parkway Development Program to coordinate the funding and implementation of activities related to New River, conduct a feasibility study on the construction of a sewage treatment and pollution prevention project in the City of Calexico, and complete various activities necessary to develop a river parkway plan for New River in the city. The bill would require state agencies providing funding for activities related to New River within the city, to the extent feasible, to coordinate the award and management funds pursuant to the California River Parkways and Urban Streams Restoration Grant Programs guidelines. The bill would require state agencies to make all necessary

efforts to integrate and align their contractual and administrative requirements for financial assistance.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 71100 of the Public Resources Code is
2 amended to read:

3 71100. The following definitions govern the construction of
4 this part:

5 (a) “Agency” means the California Environmental Protection
6 Agency.

7 ~~(a)~~

8 (b) “Cal BECC” means the California Border Environmental
9 Cooperation Committee established on July 22, 1994, by the
10 Governors of California, Baja California, and Baja California Sur.

11 ~~(b)~~

12 (c) “California-Baja California border region” means the region
13 described in Chapter IV of the US-Mexico Border XXI Program,
14 Framework Document, published October 1996.

15 (d) “City” means the City of Calexico, California.

16 (e) “Council” means the California-Mexico Border Relations
17 Council established pursuant to Section 8711 of the Government
18 Code.

19 (f) “County” means the County of Imperial, California.

20 ~~(e)~~

21 (g) “Fund” means the California Border Environmental
22 Education Fund established pursuant to Section 71101.

23 (h) “IBWC” means the International Boundary and Water
24 Commission, United States Section.

25 (i) “New River Improvement Project” or “project” means a
26 project to study, monitor, remediate, and enhance New River water
27 quality in the County of Imperial to protect human health, and
28 develop a river parkway suitable for public use and enjoyment.

29 (j) “New River Water Quality, Public Health, and River
30 Parkway Development Program” or “program” means a
31 cooperative and integrated program in the County of Imperial
32 established pursuant to Section 71103.6.

1 SEC. 2. Section 71103.5 of the Public Resources Code is
2 amended to read:

3 71103.5. (a) The Legislature finds and declares all of the
4 following:

5 (1) The New River poses an imminent and severe threat to the
6 public health of residents of Calexico, California, and adjacent
7 communities in *the County of Imperial County*. Since the 1940s,
8 the New River has been recognized as a significant pollution and
9 human health problem, primarily because of extremely high
10 concentrations of fecal coliform bacteria.

11 (2) While there have been recent measurable water quality
12 improvements as a result of sewage infrastructure projects
13 implemented and completed during the last 10 years in Mexicali,
14 Mexico, the residual and projected pollution in the New River
15 coming from Mexico remains a significant threat to public health
16 and the environment.

17 (3) Current bacteria levels in the New River are several orders
18 of magnitude above the state standards for bacteria. Based on these
19 levels and the historic levels of pollution, the waterway is believed
20 to carry pathogens that cause tuberculosis, encephalitis, polio,
21 cholera, hepatitis, and typhoid. The waterway also carries other
22 contaminants in concentrations that are in violation of federal,
23 state, and Mexican water quality standards by several hundredfold.

24 (4) The New River is listed as an impaired river by the United
25 States Environmental Protection Agency due to low dissolved
26 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
27 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
28 mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs),
29 sediment, selenium, toxaphene, toxicity, trash, and volatile organic
30 compounds (VOCs).

31 (5) The New River is a major contributor of pollution to the
32 Salton Sea, and failure to address water quality problems in the
33 New River are impeding the ability of the state to implement laws
34 and programs designed to restore and protect this important
35 environmental and wildlife habitat resource.

36 (6) The New River condition in the border area is also an
37 aesthetic nuisance for Calexico residents and has historically
38 inhibited the city's socioeconomic well-being and growth.

39 (7) A coordinated and comprehensive state strategy is needed
40 to deal with the residual and projected pollution so that the New

1 River and associated river channel can be enhanced to a condition
2 that will allow the residents of Calexico and Imperial County to
3 utilize them as recreational and natural assets as contemplated in
4 the California River Parkways Act of 2004 (Chapter 3.8
5 (commencing with Section 5750) of Division 5).

6 (8) In the Budget Act of 2009, as amended by Chapter 1 of the
7 Statutes of 2009 Fourth Extraordinary Session, eight hundred
8 thousand dollars (\$800,000) was appropriated to the City of
9 Calexico for various planning needs necessary to develop a river
10 parkway plan and river improvement project for the New River.
11 The moneys were appropriated in order to secure and serve as
12 matching funds for the four million dollars (\$4,000,000) allocated
13 pursuant to the Safe, Accountable, Flexible, Efficient
14 Transportation Equity Act: A Legacy for Users (Public Law
15 109-59) to the City of Calexico for the development of bicycle
16 paths and public park space adjacent to the New River.

17 (9) The City of Calexico, as the recipient of funding pursuant
18 to the California River Parkways Act of 2004, has agreed to provide
19 necessary financial support to the council for the development of
20 the council’s strategic plan.

21 ~~(b) As used in this section, the following terms have the~~
22 ~~following meanings:~~

23 ~~(1) “Agency” means the California Environmental Protection~~
24 ~~Agency.~~

25 ~~(2) “City” means the City of Calexico, California.~~

26 ~~(3) “Council” means the California-Mexico Border Relations~~
27 ~~Council established pursuant to Section 8711 of the Government~~
28 ~~Code.~~

29 ~~(4) “County” means the County of Imperial, California.~~

30 ~~(5) “IBWC” means the International Boundary and Water~~
31 ~~Commission, United States Section.~~

32 ~~(6) “New River Improvement Project” or “project” means a~~
33 ~~project to study, monitor, remediate, and enhance New River water~~
34 ~~quality in the County of Imperial to protect human health, and~~
35 ~~develop a river parkway suitable for public use and enjoyment.~~

36 ~~(e)~~

37 ~~(b) Pursuant to the authority granted to the council under Section~~
38 ~~8712 of the Government Code and contingent upon the execution~~
39 ~~of an agreement with the City of Calexico for the purpose of~~
40 ~~providing the necessary funding, the council shall develop a~~

1 strategic plan to guide the implementation of the New River
2 Improvement Project. The strategic plan shall include, but need
3 not be limited to, all of the following elements:

4 (1) Quantification of current and projected New River water
5 quality impairments and their threat to public health.

6 (2) Prioritization of the actions necessary to protect public health
7 and to meet New River water quality objectives and other
8 environmental goals, such as improving the quality of water flows
9 into the Salton Sea.

10 (3) Identification of potential funds for the implementation of
11 the project, and potential lead agencies that would be responsible
12 for environmental review of activities related to the cleanup and
13 restoration of the New River.

14 (4) Identification of the appropriate federal, state, and local
15 agencies with a role in implementing and achieving the New River
16 Improvement Project.

17 ~~(d)~~

18 (c) (1) To the extent permitted by law, the council may work
19 with appropriate binational, federal, state, local, and
20 nongovernmental organizations on both sides of the
21 California-Mexico border to develop the strategic plan and to fund
22 and establish cooperative water quality monitoring, public health
23 studies, inspection, and technical assistance programs as needed
24 to support, convene, and oversee the project.

25 (2) To further the objectives of this subdivision, the council
26 may convene and oversee a technical advisory committee. The
27 advisory committee shall advise the council regarding the necessary
28 studies and activities to carry out the project, and shall serve at the
29 pleasure of the council. The advisory committee shall include
30 representatives from the following:

31 (A) Impacted cities and counties.

32 (B) Relevant local, regional, and state agencies and departments.

33 (C) Nongovernmental organizations.

34 (D) Other stakeholders deemed necessary by the council.

35 (3) The council shall appoint the chair of the committee and
36 may expand the membership and expertise of the committee as it
37 deems necessary.

38 (4) The council may enter into an agreement, including an
39 interagency agreement and memorandum of understanding, with

1 public agencies, including the city, to accept, manage, and expend
2 funds for the implementation of this section.

3 ~~(e)~~

4 (d) This section does not modify existing roles, responsibilities,
5 or liabilities of the State of California, the City of Calexico, *the*
6 *County of Imperial County*, or any other governmental agency,
7 under those laws that regulate, protect, and clean up surface waters
8 entering the United States from Mexico.

9 ~~(f)~~

10 (e) The New River Improvement Project Account is hereby
11 created in the California Border Environmental and Public Health
12 Protection Fund to receive moneys for activities related to the New
13 River Improvement Project from sources identified in Section
14 71101 and other sources. Upon appropriation by the Legislature,
15 moneys in the account shall be expended to implement the purposes
16 identified in subdivision (c) or Section 71102 that are related to
17 the New River.

18 SEC. 3. Section 71103.6 is added to the Public Resources Code,
19 to read:

20 71103.6. (a) The Natural Resources Agency, in collaboration
21 with the council, shall establish the New River Water Quality,
22 Public Health, and River Parkway Development Program that
23 would accomplish all of the following goals:

24 (1) Coordinate the funding for, and implementation of, the
25 elements of the New River Improvement Project that protect human
26 health and lead to the development of a river parkway system
27 suitable for public use and enjoyment.

28 (2) Conduct a thorough environmental and engineering review
29 of the feasibility and cost of projects for the use or enlargement
30 of a natural channel for municipal purposes, as specified in Section
31 7043.5 of the Water Code, in the city.

32 (3) Complete the environmental review, engineering design,
33 and associated planning necessary to develop a river parkway plan
34 for New River within the city.

35 (4) Coordinate the funding and implementation of the
36 recommendations from the strategic plan developed pursuant to
37 subdivision (c) of Section 71103.5 by the California Environmental
38 Protection Agency and the council.

39 (5) Coordinate the funding for, and implementation of, programs
40 and projects identified by the council pursuant to Section 71102.

1 (b) State agencies that fund the activities of the New River
2 Improvement Project shall make all necessary efforts to integrate
3 and align their contractual and administrative requirements for
4 grants, loans, contracts, and other forms of financial support to
5 meet the goal of the program.

6 SEC. 4. Section 71103.7 is added to the Public Resources Code,
7 to read:

8 71103.7. (a) Prior to the development of the strategic plan
9 pursuant to subdivision (c) of Section 71103.5, a state or local
10 agency may carry out programs or projects related to New River
11 as required by a funding agency or that are necessary for the
12 protection of public health, reduction of environmental hazards,
13 or other urgent circumstances.

14 (b) State agencies awarding or granting funds to the city for the
15 implementation of the New River Improvement Project within the
16 city shall, to the extent feasible, coordinate the award or grant, and
17 the management, of funds pursuant to the California River
18 Parkways and Urban Streams Restoration Grant Programs
19 guidelines issued by the Natural Resources Agency and the
20 Department of Water Resources in August 2008.